

REMARKS

I. Status of Claims

Claims 1-24, 27-54, and 57-68 are now pending herein and subject to Examination. In the present Amendment, claims 1, 40, 44, 49, and 50 have been amended to recite that the at least one fluorescent dye is chosen from specific dyes of the formulae (F1) and (F3). Support for this amendment can be found in original claim 26, now cancelled, and in the originally filed specification. Claims 27 and 28 have been amended to correct dependency, and claims 25 and 26 have been cancelled without prejudice or disclaimer.

In addition, claim 51 has been amended to recite that the at least one fluorescent dye is chosen from specific dyes of formulae (F1), (F3), and (F4). Support for this amendment can be found in original claim 56, now cancelled, and in the originally filed specification. Claims 57-59 have been amended to correct dependency and claims 55 and 56 have been canceled without prejudice or disclaimer. Applicants have not introduced any new matter by the amendment, nor are any estoppels intended thereby.

II. Rejections under § 103(a)

A. *Matsunaga* in view of *Laurent*

The Examiner has maintained the rejection of claims 1, 2, 4-6, 8, 10, 16-26, 29-34, 36-56, and 60-68 under 35 U.S.C. § 103(a) as being unpatentable over US Patent Application Publication No. 2001/0054206 to Matsunaga et al. ("*Matsunaga*") in view of US Patent Application Publication No. 2002/0046431 to Laurent et al. ("*Laurent*") for the

reasons of record. Final Office Action, page 2. Applicants respectfully disagree and traverse this rejection for the reasons of record and the following additional reasons.

Neither *Matsunaga* nor *Laurent*, alone or in combination, teaches or suggests the composition comprising, among other ingredients, the at least one fluorescent dye as recited in, for example, present claim 1 as currently amended.

Further, neither *Matsunaga* nor *Laurent*, alone or in combination, teaches or suggests the method for dyeing human keratin fibers with a lightening effect comprising applying to the keratin fibers a composition comprising, among other ingredients, the at least one fluorescent dye as recited in, for example, present claim 44. *Matsunaga* is silent with respect to lightening, i.e., dyeing dark keratin fibers to a lighter color. *Matsunaga* does briefly refer to simultaneously bleaching and dyeing to obtain more “vivid” colors (see paragraph [018]), but this is not the same as lightening. Further, as discussed in the present specification, e.g., at paragraph [013], the use of bleach can degrade and impair keratin fibers, and thus the fact that the present inventors use fluorescent dyes to obtain lightening of color instead of using bleaching agents is one of the advantages of the present invention.

As the Examiner has failed to establish a *prima facie* case of obviousness, Applicants respectfully request this rejection be withdrawn.

B. *Matsunaga* in view of *Cottard*

The Examiner has also maintained the rejection of claims 3, 7, 9, and 11-15 under 35 U.S.C. § 103(a) as being unpatentable over *Matsunaga* in view of US Patent Application Publication No. 2001/0023514 to Cottard et al. (“*Cottard*”) for the reasons of

record. Final Office Action, page 2. Applicants respectfully disagree and traverse this rejection for the reasons of record and the following additional reasons.

Neither *Matsunaga* nor *Cottard*, alone or in combination, teaches or suggests the composition comprising, among other ingredients, the at least one fluorescent dye as recited in, for example, present claim 1 as currently amended. Indeed, *Cottard* is merely relied on by the Examiner for its disclosure of the anionic and nonionic polymers.

Therefore, as the Examiner has failed to establish a *prima facie* case of obviousness, Applicants respectfully request this rejection be withdrawn.

C. *Matsunaga* in view of *Cottard* and further in view of *Giuseppe*

The Examiner has further maintained the rejection of claim 35 under 35 U.S.C. § 103(a) as being unpatentable over *Matsunaga* in view of *Cottard* and further in view of US Patent No. 5,744,127 to Giuseppe et al. ("*Giuseppe*") for the reasons of record. Final Office Action, page 2. The Examiner further alleges that "the rejection of claim 35 can be made by incorporating the teaching of [*Laurent*] or [*Cottard*] in combination with *Matsunaga* and *Giuseppe*." *Id.* at page 5. Applicants respectfully disagree and traverse this rejection for the reasons of record and the following additional reasons.

Giuseppe is merely relied on by the Examiner for its teaching of a composition, which can be used as both a hair shampoo and a hair dyeing composition. *Giuseppe* does nothing to cure the deficiencies of the § 103(a) rejections as set forth above in subsections A and B. Therefore, this rejection is improper.

Accordingly, as the Examiner has failed to establish a *prima facie* case of obviousness, Applicants respectfully request this rejection be withdrawn.

III. Allowable Subject Matter

Applicants acknowledge, with appreciation, the indication of allowable subject matter in claims 27, 28, and 57-59, and note that such claims are objected to as based on rejected parent claims. See Final Office Action, page 2. Despite the indication that they would be allowed if rewritten in independent form, Applicants have decided to keep these claims in dependent form for the reasons discussed above, e.g., that the rejections of claims 1-26, 29-56, and 60-68 are improper and should be withdrawn, particularly in view of the present amendments.

IV. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration of this application and the timely allowance of the pending claims. If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call Applicants' undersigned representative at (202) 408-4218.

If there is any fee due in connection with the filing of this response, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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